

REMARKS/ARGUMENTS

I. General Remarks.

At the time of the Office Action, Claims 24, 25, 27, 28, and 31-52 were pending. Claims 24, 25, 27, 28, and 31-52 are subject to a restriction requirement.

II. Remarks Regarding Restriction Requirement.

In the present office action the Examiner has issued a restriction requirement under 35 U.S.C. § 121 between claims 24, 25, 27, 28, 31-35, drawn to a composition classified in class 507, subclass 217; and claims 36-52, drawn to treating subterranean zones, classified in class 507, subclass 217. In response to this restriction requirement, Applicants elect for examination on the merits, with traverse, claims 36-52.

Although Applicants are making the above election to be fully responsive to the Restriction Requirement, Applicants respectfully traverse the Requirement and reserve the right to petition under 37 C.F.R. § 1.144. Applicants request reconsideration and withdrawal of the Restriction Requirement for at least the reasons provided below.

In the instant office action, the Examiner stated, “[t]he instant examiner is not bound by the restriction decisions of the previous examiner, especially after filing an RCE. Restriction can be made at any time.” (Office Action, Continuation Sheet.)

Applicants respectfully point out that the Examiner is not applying the correct standard. There are two criteria for a proper requirement for restriction between patentably distinct inventions: (1) the inventions must be independent or distinct as claimed; and (2) there must be a serious burden on the Examiner if restriction is not required. M.P.E.P. § 803. Applicants respectfully submit that at least the second of these two criteria has not been satisfied. The standard for proper restriction is not Examiner specific. Rather, the Examiner must show how a serious burden would be imposed if restriction was not required.

While Applicants acknowledge that restriction may normally be made at any time before a final action, Applicants assert that this does not relieve the Examiner from the requirement of showing that there would be a serious burden if restriction is not required. It is unclear to Applicants how a serious burden could be imposed on the Examiner at this stage of prosecution because at least two previous Office Actions have been issued in this case, each addressing all pending claims.

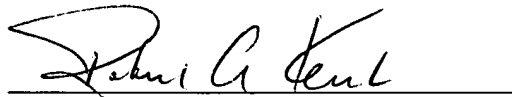
Accordingly, Applicants respectfully submit that the search and examination of all pending claims in this Application may be made without serious burden on the Examiner. Indeed, Applicants respectfully submit that requiring a restriction at this time will seriously burden Applicants, who have already invested considerable time and money into the past examination of these claims. If the Examiner insists on this restriction, Applicants will be forced to re-examine any non-elected claims of the present Application, which will be a considerable waste of expenses and resources of Applicants.

SUMMARY

In light of the above remarks and amendments, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections and objections. Applicants further submit that the application is now in condition for allowance, and earnestly solicit timely notice of the same. Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record by telephone, facsimile, or electronic mail.

Applicants believe that no additional fees are due in association with the filing of this Response. However, should the Commissioner deem that any additional fees are due, including any fees for extensions of time, the Commissioner is authorized to debit the Deposit Account of Halliburton Energy Services, Inc., No. 08-0300, for any underpayment of fees that may be due in association with this filing.

Respectfully submitted,



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